

286.8-020 Exemptions.

- (1) The following shall be exempt from this subtitle:
 - (a) Any person duly licensed, chartered, or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency under the laws of this state or any other state or the United States as a bank, bank holding company, trust company, credit union, savings and loan association, service corporation subsidiary of savings and loan associations, insurance company, real estate investment trust as defined in 26 U.S.C. sec. 856, an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, or any wholly owned subsidiary or affiliate, or any mortgage loan broker, loan officer, originator, or loan processor employed by any such person, or by a subsidiary or affiliate of any person listed in this paragraph;
 - (b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;
 - (c) Any person doing any act under order of any court;
 - (d) The United States of America, the Commonwealth of Kentucky, or any other state, district, territory, commonwealth, or possession of the United States of America, and any city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;
 - (e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA);
 - (f) Any mortgage loan involving housing initially transferred by certificate of title under KRS Chapter 186A;
 - (g) A consumer loan or finance company or an industrial loan company licensed under Subtitle 4 or 7 of this chapter whose primary business is originating consumer or industrial loans as provided under Subtitle 4 or 7 of this chapter, or any wholly owned subsidiary or affiliate of such a consumer loan or finance company or an industrial loan company, or any mortgage loan broker, loan officer, originator, or loan processor employed by any such person, or by a wholly owned subsidiary or affiliate of any such consumer loan or finance company or an industrial loan company, except that they shall be subject to the prohibited acts of KRS 286.8-220(2)(e) and (f) and 286.8-110(4); and
 - (h) A nonprofit organization that is recognized as tax-exempt under 26 U.S.C. sec. 501(c)(3) and authorized to do business in this Commonwealth, and that has affordable housing as a primary purpose in its operations, except that any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company, mortgage loan broker, or a nonprofit organization shall be subject to the provisions of KRS 286.8-255 and 286.8-260.
- (2) The following shall be exempt from all the provisions of this subtitle except that they shall be subject to the examination or investigation provisions of KRS 286.8-

170(4), (5), and (6), 286.8-180, and 286.8-190 if it appears on grounds satisfactory to the executive director that an examination or investigation is necessary; and they shall be subject to the prohibited acts provisions of KRS 286.8-220; and any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company or mortgage loan broker regulated by the Department of Housing and Urban Development shall be subject to KRS 286.8-255 and 286.8-260:

- (a) A mortgage loan company or mortgage loan broker approved and regulated by the United States Department of Housing and Urban Development to perform business in this Commonwealth;
 - (b) Any branch of a mortgage loan company or mortgage loan broker listed in paragraph (a) of this subsection, provided the branch is approved and regulated by the United States Department of Housing and Urban Development to perform business in this Commonwealth;
 - (c) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;
 - (d) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Office of Financial Institutions; and
 - (e) Any person making less than five (5) mortgage loans per year, who shall notify the Office of Financial Institutions of each loan made, in such written form and manner as required by the office.
- (3) Any person relying upon an exemption under subsection (1)(h) or (2)(a), (b), or (d) of this section shall file with the executive director a claim of exemption. The executive director shall allow an exemption that is validly claimed.
 - (4) Any person relying upon an exemption under subsection (2)(a) or (b) of this section shall fund or broker a minimum of twelve (12) Federal Housing Administration-insured loans on Kentucky properties each year in order to maintain its exemption.
 - (5) Any person relying upon an exemption under subsection (2)(a) or (b) of this section who ceases to be approved or regulated by the Department of Housing and Urban Development shall notify the executive director, in writing, within ten (10) days after it ceases to be regulated by the United States Department of Housing and Urban Development.
 - (6) Any person listed in subsection (1)(a), (b), (c), (d), (e), (f), or (g) of this section shall not be required to file with the executive director a claim of exemption.
 - (7) (a) Any natural person making a loan under subsection (2)(c) of this section shall make the following disclosure, on a separate sheet of paper in minimum eighteen (18) point type, to the borrower:

DISCLOSURE

(Name and address of lender) is not licensed or regulated by the Kentucky Office of Financial Institutions.

(Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.

(The phone number and address of the Kentucky Office of Financial Institutions.)

- (b) A copy of the disclosure, signed by the borrower, shall be maintained by the natural person for a period not to exceed three (3) years after the date the mortgage loan is paid in full.
 - (c) This subsection shall not apply to a natural person under subsection (2)(c) of this section making less than five (5) mortgage loans per year.
- (8) Any person relying upon an exemption under subsection (2)(a) or (b) of this section shall provide a list of funded or brokered Federal Housing Administration-insured loans for the previous calendar year to the executive director by January 15 of each year on a form prescribed by the executive director.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 218, sec. 2, effective July 12, 2006. -- Amended 2003 Ky. Acts ch. 64, sec. 2, effective June 24, 2003. -- Amended 2001 Ky. Acts ch. 98, sec. 1, effective June 21, 2001. -- Amended 1998 Ky. Acts ch. 197, sec. 2, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 165, sec. 23, effective July 15, 1994; and ch. 377, sec. 2, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 461, sec. 2, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 276, sec. 1, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 365, sec. 3, effective July 15, 1980.

Formerly codified as KRS 294.020.

Legislative Research Commission Note (7/12/2006). This section was amended in 2006 Ky. Acts ch. 218. In that same session, 2006 Ky. Acts ch. 247, sec. 38, required that all sections of KRS Chapters 287, 288, 290, 291, 294, 366, 366A, and 368 be renumbered as sections of a single KRS chapter entitled the "Kentucky Financial Services Code." Therefore, the Statute Reviser, acting under KRS 7.136(1), has changed the number of this section and codified it as a section of KRS Chapter 286. In addition, KRS references have been adjusted to conform with the renumbering.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.